

Deposition of Sheriff Jim Johnson, taken March 30, 2022

Page 1

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF MISSISSIPPI
ABERDEEN DIVISION

HAVANA MARIA WADE

PLAINTIFF

VS.

NO. 1:21CV98-DMB-DAS

LEE COUNTY, MISSISSIPPI

DEFENDANT

DEPOSITION OF SHERIFF JIM JOHNSON

TAKEN AT THE INSTANCE OF THE PLAINTIFF
IN THE LAW OFFICES OF MITCHELL, McNUTT & SAMS, P.A.
105 SOUTH FRONT STREET, TUPELO, MISSISSIPPI
ON MARCH 30, 2022, BEGINNING AT 10:07 A.M.

APPEARANCES NOTED HEREIN

Reported by: REGINA D. RUSSELL, RPR, CCR 1110

ADVANCED COURT REPORTING
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ADV



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22 Also Present:

23 HAVANA MARIA WADE
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25

TABLE OF CONTENTS

WITNESS PAGE

SHERIFF JIM JOHNSON

Examination by Mr. Waide..... 5

EXHIBITS

NUMBER DESCRIPTION PAGE

1 Warrant..... 27

2 Criminal Affidavit..... 32

STIPULATIONS

1. It is hereby stipulated by and between counsel that the deposition of SHERIFF JIM JOHNSON may be taken on behalf of the Plaintiff at the time and place set forth herein and be reported by Regina D. Russell, RPR, CCR 1110.
2. That all objections as to the notice of the time and place of the taking of this deposition are hereby waived.
3. That all objections except as to the form of the questions are reserved until the time of the trial.
4. That the reading of the testimony to or by the witness and signing thereof by the witness are not hereby expressly waived.

1 SHERIFF JIM JOHNSON, after being
2 duly sworn, testified as follows:

3 EXAMINATION

4 BY MR. WAIDE:

5 Q. You're Sheriff Jim Johnson?

6 A. That's correct.

7 Q. You're Sheriff Jim Johnson. And you're the
8 ultimate authority in charge of the Lee County jail?

9 A. That's correct.

10 Q. Sheriff, I'm going to ask you the same
11 question I asked your jail administrator, and listen
12 to my question carefully if you would. In your
13 opinion, is there adequate space at the Lee County
14 jail to afford humane, safe living conditions to the
15 prisoners that are afforded there -- that are
16 imprisoned there?

17 MS. GRATZ: Object to the form. You
18 may answer.

19 A. Adequate space, yes, I feel like there is.

20 Q. (Mr. Waide) All right. Is there -- are
21 you familiar with the holding area where Havana Wade
22 was held when she was there? Are you familiar with
23 that area?

24 A. I'm familiar with the holding area that's
25 located inside the jail facility. There are several

1 different holding rooms.

2 MR. WAIDE: What number did he say
3 this one was?

4 MS. WADE: I can't remember what
5 number. Three, wasn't it?

6 Q. (Mr. Waide) It was three, I believe, said
7 it was holding area three. Are you familiar with
8 holding area three?

9 A. Yes.

10 Q. And what -- are pretrial detainees held in
11 that holding area three?

12 A. Anyone that's brought into our facility for
13 whatever reason is subject to be held in one of those
14 holding facilities. Now, one of them is deemed for
15 women, one of them is deemed for men, and that
16 changes based upon the numbers. So that would be an
17 area that someone would be held when they're brought
18 into our facility or they are brought from the back
19 being taken out of our facility and there's some time
20 that's being lapsed before they leave, that is one of
21 the areas that it would be held.

22 Q. All right. Let me get this question, then
23 I'll get to the details of that in a minute. In your
24 opinion, is there adequate space in holding area
25 three to afford humane, safe living conditions for

1 the persons that are imprisoned there?

2 MS. GRATZ: Object to the form. You
3 may answer.

4 A. Yes, there is adequate space.

5 Q. (Mr. Waide) First of all, are you familiar
6 with the area I'm talking about, which the jail
7 administrator referred to as holding area three? Do
8 you know where I'm talking about?

9 A. Yes, sir.

10 Q. All right. Can you describe physically
11 what that consists of?

12 A. It is basically a square room that has
13 benches available to sit down, concrete floor,
14 concrete wall, concrete roof. It has -- the best of
15 my knowledge, it has a lavatory, which consists of a
16 commode and a sink.

17 Q. When you say benches, are you talking about
18 benches along the sides, along the walls?

19 A. Yes, sir. They're stationary along the
20 outer wall and they're bolted -- I'm sorry.

21 Q. I'm sorry.

22 A. They're bolted to the wall where they can't
23 be moved.

24 Q. And what are they made out of?

25 A. Best of my recollection, they're steel or

1 some type of metal.

2 Q. So what is the procedure for sleeping for
3 the inmates or the people that are being held in
4 those holding areas?

5 A. Either the floor, the bench or there are
6 portable, we call them portable beds, they look like
7 plastic boats, that have mattresses that can be
8 brought in and brought out. Now, that's at the
9 discretion of the staff.

10 Q. The discretion of the staff can bring in --
11 describe them for me again. You said mattresses at
12 one point.

13 A. It is a plastic container that looks like a
14 plastic boat, if I was just describing it.

15 Q. All right.

16 A. There are rollup mats and blankets that are
17 available throughout the facility to use wherever
18 they need them, and that's one particular area that
19 they could if they felt like they were necessary to
20 be used.

21 Q. And that's just left up to the discretion
22 of the staff as to whether to bring them in?

23 A. That's correct. Well, discretion of the
24 staff and the availability of the --

25 Q. You mean having enough of them?

1 A. That's correct.

2 Q. All right. When you talk about -- are
3 there actual -- do they consist of a mattress like
4 we'd have a mattress that you sleep on at night? Is
5 that what you're talking about?

6 A. No. Any mattress -- all the mattresses are
7 the same, whether it's there or whether it's in the
8 housing unit in the back. It's just a plastic,
9 waterproof thin mat, much like you would remember in
10 day school, a sleeping mat.

11 Q. I see. Okay. And how many of those are
12 available at the jail?

13 A. That I have no idea.

14 Q. You don't know?

15 A. No, sir.

16 Q. So do you know whether enough of them --
17 assuming the staff, in their discretion, wanted to
18 use these mats, do you know whether there are enough
19 of them in holding area three to accommodate all of
20 the people that would be there? Do you know whether
21 there are enough to where everybody would have one to
22 sleep on?

23 MS. GRATZ: Object to the form.

24 A. I would not know how many is available for
25 any particular time, I just know that they are there.

1 Q. (Mr. Waide) All right. Are they used
2 throughout the jail, not only in that holding area
3 but, say, in the regular -- is it just the holding
4 areas they are used in or are they used in other
5 areas of the jail?

6 A. They are used anywhere in the jail facility
7 that inmates sleep, whether it be in the holding
8 cell, whether it be in the housing unit, where there
9 are not enough actual bunks that are designed for
10 sleeping, they can be used in there. They're
11 portable. They can be used anywhere in the facility
12 that they need to be used.

13 Q. Do you know -- I assume that you've looked
14 into, to some extent at least, of Havana Wade's suit
15 since she filed it, you've looked at the complaint
16 and checked into it some, I would assume, or have
17 you?

18 A. To some degree, yes.

19 Q. Some degree. All right. Do you recall
20 during the time when she was confined down there a
21 man named James Logan talking to you personally about
22 her and what her situation was?

23 A. I don't. I don't recall it. I mean, I get
24 hundreds of thousands of calls due to this and I
25 don't personally remember a call being made.

1 Q. Or talking -- sometimes you're over at the
2 jail?

3 A. That's correct.

4 Q. You don't remember a man coming in and
5 asking you about checking on her?

6 A. I don't personally remember. I'm not going
7 to dispute it didn't happen, but I don't personally
8 remember it.

9 Q. All right. She was arrested -- from your
10 checking into this, do you understand she was
11 arrested apparently on an outstanding warrant for a
12 drug offense, apparently that's the reason she was
13 arrested? Is that what you understand?

14 A. That's my understanding.

15 Q. So from the paperwork you've seen,
16 apparently she did not -- she had not seen a judge
17 when she was arrested and did not see one while she
18 was in jail; is that your understanding?

19 A. It's my understanding that she was arrested
20 when she came into our facility based upon a felony
21 warrant, and then she was taken before a judge later
22 and a bond was set and she posted bond and got out is
23 my understanding.

24 Q. Okay. Sheriff, I'm not -- I'm just telling
25 you this for your information, and I know you just

1 know what you've heard, so this is not a criticism,
2 but I don't think what you just said is correct.

3 A. Okay.

4 Q. But I'm not --

5 MS. GRATZ: There was a waiver of
6 initial appearance.

7 Q. (Mr. Waide) I don't think she ever saw a
8 judge, but I know you may have heard different
9 things. So I'm going to more or less ask you about
10 procedures.

11 A. Okay.

12 Q. If a person like her is arrested on a
13 warrant, a felony warrant, what is the procedure for
14 when that person is supposed to see a judge, or is
15 there a procedure about that?

16 A. In a reasonable amount of time.

17 Q. All right. Have you -- I guess the person
18 ultimately that you would deal with at the jail would
19 be the jailer, the chief administrator, Mr. Partlow,
20 wouldn't it? Would that be right?

21 A. That's who I would contact.

22 Q. Is that the only instruction you've given
23 him is that he should see -- that a person should see
24 a judge within a reasonable amount of time?

25 MS. GRATZ: Object to the form.

1 A. Yes.

2 Q. (Mr. Waide) Okay. Now, is it the practice
3 that prisoners do not have contact with a judge over
4 the weekend, that is, on Saturdays and Sundays; is
5 that the practice?

6 MS. GRATZ: Object to the form.

7 A. It would depend upon the availability of
8 the judge. There are some cases where a situation
9 where an individual may be brought in that a judge is
10 aware of and the judge may contact the jail and some
11 arrangement may be made. But on an average
12 day-to-day practice, if an individual is brought in
13 for a felony warrant when the judge is in his office
14 the next working day and in a reasonable amount of
15 time we either contact the judge for a waiver of
16 initial or we either take them over for the judge to
17 see.

18 Q. So -- and I think you just answered this.
19 Let me make clear about it. The practice is that
20 they will see the judge during the judge's normal
21 working hours, which would be Monday through Friday.

22 A. When the judge is available. That's
23 correct.

24 Q. And when he's available. Are they not
25 available continuously Monday through Friday?

1 A. You'd have to ask the judge that. They set
2 their hours.

3 Q. I'm not trying to argue with you. Do you
4 know whether they're available on a regular --
5 regularly from Monday through Friday from 8:00 to
6 5:00? Do you know whether they are available?

7 MS. GRATZ: I object to the form, but
8 go ahead.

9 A. There is usually a judge there Monday
10 through Friday from 8:00 to 5:00 at justice court.

11 Q. (Mr. Waide) Have you given any
12 instructions on which judge? Is it just so long as
13 there's some judge available they should contact him
14 at a reasonable time?

15 A. There has been no instruction of contacting
16 a particular judge, no.

17 Q. I understand. But is it just in general
18 just that -- your instructions are to see a judge
19 within a reasonable time during normal working hours
20 from 8:00 to 5:00; is that a fair statement?

21 A. It is a fair statement to say that you are
22 to have a bond set or have a judge set a bond or take
23 them before a judge at a reasonable time. Now,
24 that's a lot of discretion for that officer. And you
25 have a lot of situations where you have a person that

1 is incarcerated that has a case agent that is working
2 a case, where you have an individual that is assigned
3 to that case, and those detention officers are taking
4 a lot of directions from that particular case agent
5 of when to allow them to go get a bond, when to take
6 them over, they are available to go over and discuss
7 the case with a judge. And that could have a bearing
8 upon when they go. It's not just a set thing that I
9 set. There's a lot of discretion in investigators
10 working cases of when to take them over, narcotics
11 agents of when to take them over, things of that
12 nature. So it would depend upon a particular case.
13 There's not a guaranteed way that you do it every
14 time.

15 Q. All right. Have you found the justice
16 court judges in Lee County to be accessible to you?
17 That is, can you call them on their cell phone and
18 talk to them even on weekends? I'm talking about you
19 yourself.

20 A. Me personally?

21 Q. Yes, sir.

22 A. Yes. I usually can get ahold of them if I
23 need to, yes.

24 Q. Have you ever asked the judges whether they
25 would be willing to set bonds by telephone or however

1 they want to do it over the weekends? Have you ever
2 talked to them about that?

3 A. Just in general or on a particular case?

4 Q. Either way. No, I'm not referring to any
5 particular case. Have you ever talked to them about,
6 given the fact we're in the middle of COVID, jail is
7 heavily populated, have you talked to them about
8 whether they would be willing to set bonds on the
9 weekends?

10 A. I have never talked to a judge or discussed
11 with a judge about a general practice of could y'all
12 set bonds on the weekend. No, I have not had a
13 conversation of that nature.

14 Q. So you don't know whether -- is it fair to
15 say you don't know whether they would be willing to
16 do that or not?

17 A. I couldn't answer that.

18 Q. All right. Do you know -- in looking into
19 this case, do you know anything about Ms. Wade? Do
20 you know anything about her? My client seated right
21 here?

22 A. None other than what has been privy to me
23 through this lawsuit, no.

24 Q. I guess, have you learned or do you
25 understand that she had a serious mental history

1 before this? Did you understand that?

2 A. I was not aware of any of this.

3 Q. Do y'all have any procedures when a person
4 is arrested on a warrant for taking into account
5 their mental history? Is there any way to take that
6 into account in deciding whether to incarcerate them
7 in jail?

8 A. There is an evaluation questionnaire when
9 they're brought in for the individual that's being
10 detained to answer.

11 Q. Okay. So that should be somewhere in the
12 records somewhere, the questionnaire?

13 A. Yes.

14 Q. Do you understand or would you agree with
15 me that you as the sheriff of Lee County, the highest
16 law enforcement officer in Lee County, would have the
17 discretion if you wanted to, even though they haven't
18 seen a judge, if you thought the circumstances
19 warranted to release a person on their own
20 recognizance even though they hadn't seen a judge?

21 MS. GRATZ: Object to the form.

22 Q. (Mr. Waide) Would you have that discretion
23 as a sheriff?

24 MS. GRATZ: Object to the form.

25 Q. (Mr. Waide) Even if they've been arrested?

1 A. Prior to the bond?

2 MS. GRATZ: Object to the form.

3 Q. (Mr. Waide) Yes, sir.

4 A. Prior to the bond being set?

5 Q. Yes, sir. Even without them seeing a
6 judge.

7 MS. GRATZ: I object to the form.

8 A. I do understand that that power would be
9 available in a circumstance that needed to be
10 exercised, yes.

11 Q. (Mr. Waide) You feel like -- I'm not
12 asking you what the law is. I can tell you my
13 opinion of what the law is. I'm just asking your
14 opinion. You believe you have that opinion as the
15 sheriff of Lee County to release somebody on their
16 own recognizance even if they haven't seen a judge?

17 MS. GRATZ: Object to the form.

18 A. Prior to a bond being set, yes.

19 Q. (Mr. Waide) Yes, sir. Okay. All right.
20 I take it -- I understand -- this is just my
21 understanding, that you have from time to time
22 exercised that authority and released people on their
23 own recognizance prior to seeing a judge, correct?

24 A. I have not done it without exhausting all
25 means of trying to get a judge and they was at a

1 conference and I couldn't get ahold of them or
2 something of that nature. I have not overruled the
3 judge or the availability of a judge.

4 Q. No, I'm not saying that.

5 A. No, I have not done that.

6 Q. You never have directed that somebody
7 that's been arrested be released if they haven't seen
8 a judge? That has never happened?

9 A. Not without a bond being set that I can
10 recall.

11 Q. Okay.

12 A. Now, if there's a particular case you're
13 talking about we can look at it. But I don't --

14 Q. Well, I really don't want to stir up any
15 controversy by getting into a case. Let me go on.
16 Do you know of any reason -- of course, you don't
17 know anything right now about her history or her
18 mental condition or whether she's lives in the
19 same -- you know, lives in Lee County, criminal
20 background? You don't really know anything about Ms.
21 Wade, I take it?

22 A. No, sir. I do not.

23 Q. Assuming she was arrested for a felony
24 warrant -- arrested on a felony warrant.

25 A. Uh-huh (Indicating yes).

1 Q. So far as what you know, except for the
2 fact that she's got a felony warrant and that's the
3 reason for her arrest, do you know of any reason as
4 we sit here today why she could not have been
5 released on her own recognizance, whether by you or
6 whether by a judge immediately upon her being
7 arrested, just except for the fact that she has a
8 felony warrant?

9 MS. GRATZ: Object to the form.

10 A. Well, there would need to be a bond set.
11 There has to be a bond amount, and that would be set
12 by a judge.

13 Q. (Mr. Waide) Well, by own recognizance, I
14 mean without any financial bond. It's just the
15 practice that financial bond is required. But it's
16 not -- I'm asking you whether there's any reason for
17 that. Why could you just not -- let's assume a
18 person is nonviolent, always lived in the same place,
19 is not likely to flee. Is there any reason why such
20 a person as that couldn't just be released on her own
21 recognizance, whether by a judge or by you?

22 MS. GRATZ: Object to the form, but go
23 ahead.

24 A. I do approve recog bonds, which is a
25 signature bond that does not require any monetary

1 amount to be put up.

2 Q. (Mr. Waide) All right.

3 A. But even on those recog bonds, there is a
4 bond amount.

5 Q. I see.

6 A. There has been a bond set.

7 Q. A financial bond.

8 A. A financial bond is set. And then once
9 that's done, then I exercise the authority to allow
10 someone to do a signature bond if -- or whatever
11 choice that we make. But it is still after the fact
12 that a bond is set.

13 Q. By a judge, you mean?

14 A. By a judge. I've never had someone brought
15 in and just automatically release them on a
16 recognizance bond without a judge having a bond
17 amount.

18 Q. In other words -- in other words, in order
19 to be released they have to -- I guess conceivably it
20 could be done by telephone? They wouldn't
21 necessarily have to appear before the judge, would
22 they? Or do they have to appear before the judge?

23 A. No. It has been done on the phone before.

24 Q. Okay. By signature or recog bond, what
25 you're talking about is they just sign their own

1 bond, right?

2 A. That's correct.

3 Q. And it still has a financial amount in it?

4 A. There's a bond amount. That's correct.

5 Q. In other words, they just sign their own
6 bond without any sureties?

7 A. Without posting any money. That's correct.

8 Q. And I understand from a previous witness,
9 and you can correct me if I'm wrong about his
10 understanding, but I understand from a previous
11 witness that it has been the practice since COVID for
12 people who are arrested for misdemeanors to be
13 released on their own -- well, he described it as
14 their own recognizance, but I assume what you mean is
15 on these signature bonds where they just sign them
16 themselves.

17 A. That's correct. But on all misdemeanors
18 there's already a bond amount set. There's a chart
19 we go by. And so that amount is put on the bond.
20 And then once that's done and that bond has been
21 preset, then you're not having to go before a judge,
22 you're not having to contact a judge because the
23 judge has already set this amount.

24 Q. I see. It's a set amount.

25 A. And at that point, yes, I have authorized

1 recog bonds. That's correct.

2 Q. But what you refer to as a recog bond
3 though is just a person signing their own bond?

4 A. That's correct.

5 Q. What I'm -- we're kind of talking in two
6 different languages here. What I refer to as a recog
7 bond is where someone just signs what's an agreement
8 to appear, I agree to appear on thus and such date,
9 like a summons in a traffic ticket.

10 A. And no bond amount or no nothing?

11 Q. Yeah. But y'all don't do that?

12 A. No. I don't. I don't know if anybody down
13 there does do it.

14 Q. I guess my question to you though, Sheriff,
15 is, let's assume we have a citizen who is no
16 indication they would not appear for court, you don't
17 have anything before you like they've ever skipped
18 the country or anything, and they don't have any
19 violent history and they have family connections in
20 the community and whatever. In other words, you just
21 don't have any evidence that they wouldn't appear.
22 Is there any reason why you could not release
23 somebody like that just on their own recognizance?

24 MS. GRATZ: Object to the form.

25 Q. (Mr. Waide) I mean -- what I mean is, I

1 hereby sign this paper and I agree to be in justice
2 court on such and such a date and my address is and
3 my contact numbers are thus and so and I promise to
4 appear. Is there any reason that couldn't be done?

5 MS. GRATZ: Same objection.

6 A. And that is somewhat done when a person is
7 not brought to jail. A traffic ticket.

8 Q. (Mr. Waide) Right.

9 A. I mean, you just write it and hope you come
10 back, a post release for your -- catch someone
11 selling beer to a minor, or whatever the choice may
12 be. If the officer decides not to bring them to
13 jail, there is somewhat of a situation that you're
14 talking about. Once they're arrested and brought in
15 and incarcerated, then it is the practice that there
16 be a monetary amount on there. And then the
17 signature bond that just what you said, this is my
18 land, this is my name, this is my telephone number.
19 Because there is an information sheet that I do get
20 of the address and where to contact them in case this
21 particular individual fails to appear, we have the
22 information to go back and get them. But once
23 they're arrested and brought in, then there is a
24 monetary amount that's set by a judge.

25 Q. Right.

1 A. But, yes, I could do what you said prior to
2 that. But that would be the two differences.

3 Q. All right. But the practice -- the
4 practice -- and we're really talking about a felony
5 case here, a warrant on a felony, an outstanding
6 felony. In that situation, a judge is going to have
7 to set -- in general, the judge is going to have to
8 set the bond before the person can be released?

9 A. That's correct. Because the warrant
10 specifically states to.

11 Q. Right. And it won't be -- and under the
12 current practice, there's no practice for attempting
13 to contact the judge over the weekend?

14 A. I mean, the agent could if the agent that's
15 working the case, if they felt like if they wanted
16 to, they would have that discretion, yes. They
17 could.

18 Q. But you as the Sheriff of Lee county don't
19 have any practice of requiring that an attempt be
20 made to contact a judge over the weekend?

21 A. No.

22 Q. Our justice court system, we have three
23 justice court judges in Lee County?

24 A. Four.

25 Q. Four. I'm sorry. Four. Okay. From

1 reading the complaint, you know that this warrant
2 that Ms. Wade was arrested on was a ten-year-old
3 warrant, I believe a 2010 warrant?

4 A. I would have to look at it to look at the
5 date. I'm not going to argue with you.

6 Q. Okay. Have you instructed the jailers to
7 give any -- make an investigation as to the validity
8 of the warrant or whether the warrant is still valid
9 when it's that old?

10 A. Yes.

11 MS. GRATZ: Object to the form.

12 Q. (Mr. Waide) You have? Tell me about that.

13 A. Whenever an individual is run for a
14 warrants check, a 10-29 check, we have the capability
15 on our -- at our facility to check it on a computer
16 to see if there was ever a warrant issued for that
17 particular individual. The safety net for that is,
18 we possess the actual warrant in-house at the
19 sheriff's department. And so that's what we call a
20 hard copy. That's the actual original copy or
21 original warrant that a judge signs, whether it be a
22 misdemeanor, a felony, a capias, a chancery hold,
23 whatever it is, we house them in our office.

24 Q. Okay. So the hard copy of the warrant was
25 at your office?

1 A. That's where they're housed at.

2 Q. What I'm talking about though, that
3 wouldn't disclose whether that warrant has ever been
4 withdrawn, or would it?

5 A. I'm getting to that.

6 Q. Okay. Go ahead.

7 A. Okay. So that warrant is housed at our
8 facility. If that warrant is ever not active, if the
9 judge decides or the case has got a disposition or
10 for whatever reason the judge decides to do something
11 with it, then there's a paper trail that follows that
12 and that warrant will be pulled and sent back over to
13 the justice court. But as long as that warrant is
14 active and it's on file at our office, then my staff
15 is to look at that as an active warrant. And so that
16 was -- that's how that protocol is handled.

17 Q. Okay. So whether there's -- for example, a
18 warrant -- I thought I had a copy of it. Let me see
19 if I do. Here we go.

20 MR. WAIDE: Make this warrant an
21 exhibit to his deposition if you would.

22 (Exhibit No. 1 -- Warrant -- marked
23 and may be found attached to the back of the
24 transcript.)

25 Q. (Mr. Waide) That's going to be Exhibit 1

1 to your deposition. Do you know whether or not --
2 you may not know, you weren't there. Do you know
3 whether or not this is the -- Exhibit 1 is the
4 warrant that was on file at your office?

5 A. Now, that I don't know.

6 Q. That's what you're talking about though
7 would be on file at your office, that type of
8 document, right?

9 A. Yes. This is a copy of what it would look
10 like.

11 Q. What about an affidavit underlying this
12 warrant, is the affidavit on file at your office or
13 just the warrant?

14 A. No, it's just the warrant. The affidavit
15 and all other paperwork is filed in justice court.
16 Yes, that's correct.

17 Q. Is there any procedure then for checking to
18 make sure there's a valid affidavit on file for the
19 warrant?

20 A. Not for an affidavit. As long as that
21 warrant is at our office it's considered valid. If
22 it's not, justice court contacts us, or whoever
23 issued it will contact us and that warrant will be
24 withdrawn.

25 Q. Okay.

1 A. But as long as it's there it's considered
2 active.

3 Q. All right. This warrant looks like it was
4 issued in 2010, or 20 years -- or 10 years, a decade
5 before. Is there any procedure for checking about
6 why there would be -- a warrant would be that old and
7 never been served?

8 A. They could call to ask justice court. But,
9 you know, I don't know what procedure was followed on
10 this. But if that warrant was on file at our office
11 it's considered active.

12 Q. All right. As a matter of practice when a
13 warrant like this is issued, is there any attempt to
14 serve the warrant or do you just wait until the
15 person is stopped at a roadblock or -- do y'all have
16 any active procedure for looking for people that
17 warrants have been issued for?

18 A. In general?

19 Q. Yes, sir. In general?

20 A. We do have a procedure that -- and there
21 are so many variables in this. If it is a case that
22 an investigator is assigned to and they're actively
23 working it, most of the time they will initiate
24 whatever protocol needs to be to get it served, where
25 the person may be. They kind of stay on what we call

1 on top of their cases. If it is a warrant issued
2 because some individual went over to justice court,
3 signed an affidavit and there was a warrant issued
4 and there's no investigation, we have no paperwork,
5 we have no knowledge of it or whatever and that
6 warrant is sent over, then ourselves or a constable
7 has the authority, because they work out of justice
8 court, to go through those and serve them or
9 whatever. But some of them do sit stagnant and they
10 are found out when we do a background check, when we
11 do a safety checkpoint, when we run a driver's
12 license, when another agency stops them and they run
13 what we called a 10-29 on a traffic stop. So there's
14 not just one particular way that it is done.

15 Q. Would it be fair to say if a warrant has
16 sat there for that long, the probability is it's a
17 matter that didn't -- that whatever officer was
18 involved in it, if there was an officer involved in
19 it, didn't see it as any particular urgency?

20 MS. GRATZ: Object to the form.

21 Q. (Mr. Waide) If it sits there for that
22 long?

23 MS. GRATZ: Same objection.

24 A. You know, I'm not working the case and I
25 wouldn't be -- I wouldn't feel fair to say why or why

1 it was not served. That would be more of a question
2 for the officer that's working the case to determine
3 it. But, I mean, we have warrants that's this age
4 that get served. This is not the only one. We have
5 them. So why it sat there that long and the officer
6 didn't initiate it being served, that would be
7 something they would need to answer.

8 Q. (Mr. Waide) We don't know who the officer
9 was because we don't have an affidavit, right? We
10 don't know who the officer was that caused this to be
11 issued?

12 A. I don't based on this.

13 Q. Do you know?

14 A. Personal knowledge?

15 Q. Yes. Have you heard? Do you know from
16 looking into this case maybe, do you know what
17 officer caused this warrant to be issued?

18 A. Don't hold me to this. But, now, my
19 understanding is this case was generated out of North
20 Mississippi Narcotics Unit, which is a combination of
21 several counties, including ours, and several
22 municipalities. So I'm not familiar with what case
23 agent worked this particular case. I think I have
24 heard Mr. Harper's name mentioned that may have been
25 a case agent, and I've heard Kevin Warren played some

1 part in it. But, now, that I don't --

2 Q. Kevin Warren?

3 A. Uh-huh (Indicating yes).

4 Q. What agency does he work for?

5 A. He works for North Mississippi Narcotics.

6 He works for me but he's assigned to North

7 Mississippi Narcotics.

8 Q. You never have talked to Mr. Warren?

9 MS. GRATZ: About this case?

10 Q. (Mr. Waide) Yeah, about this case?

11 A. I've not talked to anybody about this case
12 as far as narcotics is concerned.

13 MR. WAIDE: All right. Let's mark
14 this as Exhibit 2.

15 (Exhibit No. 2 -- Criminal Affidavit
16 -- marked and may be found attached to the back of
17 the transcript.)

18 Q. (Mr. Waide) Exhibit 2 looks to be a
19 computer printout that has information about Ms.
20 Wade, including the nature of offense, it's kind of
21 hard to read, it's down in the middle of the page,
22 possession of controlled substance. And it was filed
23 in September of 2010. It looks like it has a
24 disposition date of August 10, 2020. What -- have
25 you ever seen a document like this before? Looks

1 like a computer printout?

2 A. This is strictly factual and part of it is
3 opinion. This is not anything that my office
4 produced. Opinion-wise, it looks like a printed
5 screen of something that justice court or one of the
6 courts printed. But it's not anything that my office
7 generated. And if I was forced to make a guess, I
8 would say it's a court document of some type that the
9 court has printed. I mean, it says at the bottom,
10 Delta Computer Systems. That's not anything that
11 we --

12 Q. All right. You earlier indicated, if I
13 understand your earlier testimony, that in the normal
14 course of things a person who has been arrested will
15 be brought over to the justice court judge in a
16 reasonable time, which would be during the regular
17 working hours Monday through Friday; is that a fair
18 statement?

19 A. That's fair.

20 Q. At that point when they make that first
21 appearance, is there a lawyer appointed for the
22 person over there at the justice court? Do they get
23 a lawyer appointed or do you know? Don't tell me if
24 you don't know.

25 A. No, I can answer that. If it is a felony

1 case and they are taken over for a judge for an
2 initial appearance --

3 Q. Right.

4 A. -- then part of that initial appearance
5 waiver or form that they're looking at, one of the
6 questions is to have an appointed attorney or have
7 you got one that you're going to hire, and that name
8 is placed on that initial appearance at that
9 particular time.

10 Q. Do you know whether they actually get a
11 lawyer at that time? Is a lawyer actually appointed?
12 Well, I guess it's put in their paperwork, but
13 whether they actually see the person at that time, do
14 you know?

15 A. No. I mean, I've never seen a lawyer jump
16 out of the wall at that time in the room.

17 Q. They don't call one over there, I take it?

18 A. No. It's written on there.

19 Q. On their paperwork that's their lawyer.
20 And when the lawyer sees them would be pretty much up
21 to the lawyer, I take it, at that point?

22 A. If it's court appointed. Now, we have had
23 initial appearances where the individual hired the
24 attorney and the attorney went over there with them.
25 There has been that case. But if it's appointed then

1 the court appoints it and then it's up to the court
2 to arrange that.

3 Q. The court or the lawyer?

4 A. Or the lawyer, correct.

5 Q. Who are the current court-appointed lawyers
6 in Lee County?

7 A. Oh, I'm guessing. I'm strictly guessing.
8 Lori Basham, Will Bristow. Those are the only two I
9 can think of. And that changes. But those were the
10 last two. It has been a long time since I fooled
11 with that, to be honest, but I think that's who it
12 is. Adam Pinkard. Kelly Mims used to be. He's a
13 judge.

14 Q. Right. Well, since you mentioned Kelly
15 Mims, Kelly Mims has a niece named Sherry Mask, I
16 think at one time her name was Sherry Williams, and
17 there was quite a controversy, as I understand, about
18 her being -- she was a nurse that was arrested out at
19 North Mississippi Medical Center and was in the Lee
20 County jail at the same time Ms. Wade was and she was
21 making some complaints about her treatment. Do you
22 happen to remember her? Do you know who I'm talking
23 about? Have any idea who I'm talking about?

24 A. No.

25 Q. Okay. I asked the previous witness this

1 and I need to ask you as well. As I understand it,
2 if I wanted to get a list of the people who were in
3 jail at the same time Ms. Wade was, I can get that
4 out of the jail docket, the jail docket would
5 disclose that?

6 A. Yes. The jail docket would disclose that.
7 You'd have to search for it.

8 Q. It's maintained by date, isn't it, I
9 assume?

10 A. It's maintained by date. It's name, date
11 of birth and charge.

12 Q. All right. Is there any record of when
13 they're released kept? Apart from the jail docket,
14 is there any other record where you could go in and
15 take a particular person and see when that person was
16 released?

17 A. It's in the jail docket. And another
18 thing, it's all alphabetized.

19 Q. The jail docket is alphabetized?

20 A. By last name.

21 Q. So you could go to the last name of the
22 people, if you know who was in jail, and then find
23 out when they were put in and when they were
24 released?

25 A. (Witness nods head affirmatively.)

1 Q. And is it also maintained by date so you
2 can also go to a date and see --

3 A. Not the docket. The public docket is not.

4 Q. What document is there over there that
5 could show us by date? See, I'd like to know who was
6 in jail at the same time Ms. Wade was. How can I
7 find that out?

8 A. There is -- the capability of our system
9 can search by date, by name, by sex. And I'm pretty
10 certain you could probably put the date in question
11 and have the people that were incarcerated that day.
12 Now, I don't know that it's going to separate who was
13 in holding cell two that day and who was in holding
14 cell three.

15 Q. I see.

16 A. I think it's just going to have the
17 availability that these were the people in jail on
18 January 1st of 2020. I believe that's right.

19 Q. So you don't think it can be -- who is your
20 computer expert over there that we can talk to?

21 A. I mean, Captain --

22 Q. I know it's not Gary Carnathan. He don't
23 have a cell phone.

24 A. Captain Partlow would know what the
25 capability of it is. I know you can do searches for

1 different things as far as knowing the people that
2 were in jail that particular day. Now, how confined
3 you can make that, if I need to know who's in housing
4 unit A that day, I don't know that it will do that,
5 and it may. But Captain Partlow would know the
6 answer to that. But J. C. Aaron is the tech guy for
7 Lee County. But, now, I don't know -- he doesn't
8 have enough knowledge to know how our system works,
9 because it's an in-house system that we had built to
10 fit our jail, and Captain Partlow was trained on it.

11 Q. I'm embarrassed to say I've never even
12 looked at the jail docket as long as I've been a
13 lawyer in Lee County. I've never even looked at it.

14 A. You should come down and look at it.

15 Q. I intend to. I intend to come look at it.
16 Is the jail docket, is it -- I know it's maintain
17 alphabetical by person, but is it also maintained --
18 can you go to a particular date in the jail docket
19 and see who was in jail?

20 A. (Witness shakes head negatively.)

21 Q. You can't do that?

22 A. No. It is a red docket book that's
23 handwritten every day that you put the name of the
24 person arrested, it has a place for their date of
25 birth, a place for their arrest, and then their

1 charge and their release date. And it has got A
2 through Z tabs. So if you're looking for Jim Waide,
3 you'd look under W, and it would tell you what date
4 that individual was arrested and what the charge was.
5 But, now, you would have to know their last name and
6 then you'd just have to flip back and forth through
7 the book. It's the way --

8 Q. You told me something. I'm asking the same
9 question again. But you told me there was some -- if
10 I wanted to go down -- how would you go about if you
11 wanted to take -- I want to find out who was in jail
12 the days Ms. Wade was there, say, on July 31st, 2020.
13 How would I go about doing that? People in the jail
14 in the holding cell with her is what I'm interested
15 in. There's not any way to do that?

16 A. For you to do that?

17 Q. Well, for somebody to do it that has
18 expertise to do it?

19 A. I would say they would have to file a
20 freedom of information and request a summons or get
21 with the attorney or something to do it.

22 Q. That's what -- we're kind of squabbling
23 about that now, about how to go about it and what to
24 do.

25 A. They would have to advise you how to do

1 that.

2 Q. Okay. You don't know yourself how to get
3 it?

4 A. All I know is our system has the capability
5 of -- has the capability of doing a search of knowing
6 dates, people's name, things of that nature, at the
7 touch of a computer versus going in that docket
8 manually.

9 Q. Right.

10 A. Yeah. It's like going on a trip with Gary
11 or going on a trip with me, it would be a different
12 trip.

13 Q. All right. Sheriff, I guess I need to ask
14 you this, which is kind of overlapping. I feel like
15 I know that your position is that we need a new jail
16 over there. I feel like I know that from reading the
17 newspaper. This is relevant to my case here, so I
18 need to know why. Why do we need a new jail? That's
19 your opinion we need a new jail, correct?

20 A. It is my opinion.

21 Q. Tell me why that is.

22 A. Well, anything can be improved, no matter
23 what it is.

24 Q. Right.

25 A. As far as the jail is concerned, we opened

1 it in 1995, I think, '95 or '97. I'm losing dates.
2 The laws have changed. We wrote -- most recent
3 COVID. There is always room for improvements once
4 you get a place, whether you're building a house and
5 10 years later you realize I wish I'd made the
6 bedroom bigger, I wish I had made the closet bigger.
7 The jail is no different. There are some things in
8 there that we would like to see improvements on.
9 It's not just my opinion. There has been three
10 studies done upon the facility.

11 Q. Do you have those? Where are those?

12 A. And things of that nature.

13 Q. Where are these studies? Are they on the
14 internet? Do you have them in your possession?

15 A. No. The board of supervisors would have
16 access to that.

17 Q. Okay. On whether we need a new jail or the
18 need for a new jail?

19 A. The study of the jail that could go more in
20 specifics. The need for -- the purpose of needing a
21 new facility, the reason why they feel that, you
22 know. It's not just my opinion. I work in it every
23 day. When I talk about the jail, it's not just the
24 fact of individuals that are detained. My office
25 staff -- my briefing room is not big enough for my

1 staff. The lobby area, the way it is designed, it
2 doesn't meet the needs of the general public. And we
3 have, you know, changed things and done the best that
4 we could with what we've got. But there's just a lot
5 of improvement. The staff bathroom doesn't work.
6 So, you know, I could sit here and -- but overall, I
7 do support a new facility.

8 Q. All right. What I'm interested in is the
9 prisoners. In your opinion, is there a need for a
10 new -- is your opinion that we need a new jail
11 related in any way to the need for more space and
12 better facilities for the prisoners?

13 A. There is a need for more space. Now, you
14 know, we make do with what we have. With what we
15 have, there is no one that is mistreated. There is no
16 one that needs are not met to the best way that we
17 can meet them with what we've got. But there are
18 always ways to improve it. It would be better if we
19 had -- for instance, if we had showers inside the
20 cells for inmates to use. But there is a shower
21 available, it's just time-consuming for us to get
22 them out and move them over to this area, get it done
23 and move them back. The exercise yard is outside
24 where there's no roof. So if it's raining you got to
25 get wet. If it's snowing you're going to get cold.

1 It would be better if that facility was inside and
2 climate controlled. Since COVID come in, you know,
3 the U. S. Department of Justice, the criminal justice
4 studied people and everything, helped design the
5 facility we had in 1995. If they designed it today
6 they would do it different. Because they have went
7 from that particular facility designed for what you
8 call dormitory-style housing, where a group of
9 people, large group of people are in a room all
10 together. Now they're kind of getting away from that
11 and trying to get segregation to where you can now,
12 because of COVID, because of health issues, that you
13 can segregate this one from this one. Our facility
14 was not designed to do that. Our facility was
15 designed for multiple people to be in a room, whether
16 in the housing unit, the holding cell. There are
17 very few individuals rooms that an individual gets
18 his own cot, his own bed, her own bed. So for those
19 reasons I support a new facility because there's just
20 different ways that we would be able to meet the
21 needs of -- visitation is all -- you got to bring an
22 inmate out, you got to bring them up, the general
23 public has got to come in. You know, it would be
24 better to have that designed in a different way. And
25 we've worked on some of that where we've got audio

1 and video visitation. But there are just a lot of
2 different improvements.

3 Q. Y'all maintain use of force reports any
4 time a correctional officer uses force?

5 A. Yes.

6 Q. All right. And those would be accessible
7 by date?

8 A. That's correct.

9 MR. WAIDE: All right. I'm going to
10 need to take a few minutes to talk with her to see if
11 I've got anything else for the sheriff.

12 (Pause in Proceedings.)

13 Q. (Mr. Waide) Sheriff, assuming this for the
14 sake of argument -- I'm sure you don't know this.
15 But assuming Ms. Wade was put in jail around noon --
16 arrested around noon on Friday, there's no reason why
17 they couldn't have contacted or called a judge
18 before -- that Friday afternoon to ask about a bond
19 for her, is there?

20 MS. GRATZ: Object to the form.

21 Q. (Mr. Waide) Somebody at the jail couldn't
22 have done that?

23 MS. GRATZ: Same objection.

24 A. There's not no reason they couldn't have.

25 Q. (Mr. Waide) All right. Sheriff, I'm

1 not -- all have sinned and come short of the glory of
2 God. I bet you know that from the Baptist church,
3 don't you?

4 A. That's the only way I'm getting to Heaven,
5 to accept that.

6 Q. Well, I tell you that to tell you, I know
7 you're going to say this is just Waide over here
8 trying to embarrass me, and that's not what I'm
9 trying to do. This is relevant to my case.

10 A. Okay.

11 Q. We were talking about recognizance and your
12 ability to do recognizances. And at one point you
13 said, well, if you can give me a special case.

14 A. Okay.

15 Q. So I'm going to give you one.

16 A. Okay.

17 Q. The news media reported that you contacted
18 the jail and got a supervisor named Billy Joe Holland
19 out of jail before he had seen a judge. He was
20 arrested on a DUI.

21 A. Right.

22 Q. The news reported this. Do you remember
23 those?

24 A. That's correct.

25 Q. And they quoted you as having said you did

1 that.

2 A. That's correct.

3 Q. Did you do that? Is that true?

4 A. Yes.

5 Q. Have there been other examples of cases
6 where you've let people -- contacted the jail and let
7 them out before they had seen the judge?

8 A. No. That case was not the same way.

9 Q. I'm sorry?

10 A. That particular case, the Holland case, was
11 not that particular case. It's not in the variable
12 that you're putting it, as before he saw the judge.

13 Q. Oh, he had seen the judge?

14 A. No. As I said earlier in my statement, if
15 you are brought into our facility and you are charged
16 with a misdemeanor, which Mr. Holland was charged
17 with a misdemeanor, there is bond amount that has
18 already previously been set by a judge.

19 Q. I see.

20 A. In that particular case, that amount would
21 have already been there. And many occasions I will
22 be called at home, contacted some shape, form or
23 fashion and they will say, hey, could I go down and
24 pick so and so up, do you mind if I go on their bond,
25 can I sign their bond, can you release them, whatever

1 reason. Then I will contact the jail, as I did --
2 and it's no embarrassment. I'm not ashamed of what I
3 did -- of Mr. Holland and have them, when they get
4 through with him, then release him on his own
5 recognizance to whoever. Yes, I did it. I did it.
6 But there was already -- the bond amount in that case
7 was already set.

8 Q. So the only difference between him and
9 anybody else arrested for DUI is he didn't sit there
10 for the eight hours. That would be the only
11 difference?

12 A. That's correct.

13 Q. Is everybody who's arrested for a
14 misdemeanor entitled to that procedure to be released
15 by just a signature bond, everybody that has a
16 misdemeanor?

17 MS. GRATZ: Object to the form. Go
18 ahead.

19 A. Yes. Captain Partlow has got the authority
20 that I've give him the authority that if they are
21 arrested for a misdemeanor and he needs to have them
22 released for whatever reason on a recog bond or
23 property bond, he has the authority to do that. Now,
24 how many times he has exercised it, that I don't
25 know. But that is available, yes. And as you said

1 before the conversation ever started, the paper is
2 not always accurate.

3 Q. Yeah, I know. But you've answered
4 accurately as to what happened?

5 A. That's correct. That's what happened.
6 Yes.

7 Q. All right. I have some other things I
8 could ask but I don't think it serves any purpose.

9 MR. WAIDE: That's all I have.

10 MS. GRATZ: Okay. Thank you.

11 (Deposition concluded at 11:10 a.m.)
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C E R T I F I C A T E

STATE OF MISSISSIPPI)

COUNTY OF LEE)

RE: ORAL DEPOSITION OF SHERIFF JIM JOHNSON

I, Regina D. Russell, RPR, CCR 1110, a Notary Public within and for the aforesaid county and state, duly commissioned and acting, hereby certify that the foregoing proceedings were taken before me at the time and place set forth above; that the statements were written by me in machine shorthand; that the statements were thereafter transcribed by me, or under my direct supervision, by means of computer-aided transcription, constituting a true and correct transcription of the proceedings; and that the witness was by me duly sworn to testify to the truth and nothing but the truth in this cause.

I further certify that I am not a relative or employee of any of the parties, or of counsel, nor am I financially or otherwise interested in the outcome of this action.

Witness my hand and seal on this 15th day of April, 2022.

My Commission Expires: RPR, CCR 1110
January 27, 2024 Notary Public